

WHEN RECORDED MAIL TO:
Tooele City Recorder
90 North Main Street
Tooele City, Utah 84074

Ent: 357403 - Pg 1 of 5
Date: 06/21/2011 11:51 AM
Fee: \$0.00
Filed By: ca
Jerry M. Houshton, Recorder

**WATER RIGHT WARRANTY DEED
and ASSIGNMENT OF CHANGE APPLICATION**

TOOELE COUNTY, GRANTOR, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, hereby conveys and assigns to TOOELE CITY WATER SPECIAL SERVICE DISTRICT, a Utah special district, GRANTEE, all of its right, title and interest in and to:

70.2 Acre-feet of Water Right 15-4036, as modified by Change Application a37152, which is sufficient water for municipal purposes associated with construction of the Tooele County Jail, Phase 1, consisting of 264 beds.

GRANTOR hereby warrants that the water conveyed under the above referenced water right has been placed to full beneficial use and is not subject to any claim of abandonment or forfeiture for nonuse.

DATED this 7th day of June 2011.

ATTEST:

Marilyn A. Gillette
Marilyn A. GILLETTE
TOOELE COUNTY CLERK
State of Utah)
County of Tooele)
: ss

GRANTOR
TOOELE COUNTY

By: Colleen Johnson
Its: County Commissioner

The foregoing instrument was acknowledged before me this 7th day of June, 2011 by Colleen Johnson, in his/her capacity as Commissioner of Tooele County GRANTOR herein.

Deborah C. Smart
Notary Public

Notary Public
DEBORAH C. SMART
Commission #809713
My Commission Expires
May 12, 2015
State of Utah



GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

TOOELE COUNTY CORPORATON
CONTRACT # 11-06-11

ORDER OF THE STATE ENGINEER

For Permanent Change Application Number 15-4036 (a37152)

Permanent Change Application Number 15-4036 (a37152) in the names of Tooele City Water Special Service District and Tooele County, was filed on February 22, 2011, to add points of diversion, and change the nature of use and the places of use of 200.0 acre-feet (af) of water as evidenced by Water Right Number 15-4036. Heretofore, the water has been diverted from the following points located: (1) Well - East 400 feet from the SW Corner of Section 4, T2S, R6W, SLB&M; (2) Well - East 3300 feet from the SW Corner of Section 9, T2S, R6W, SLB&M; (3) Well - North 20 feet and East 610 feet from the N $\frac{1}{4}$ Corner of Section 23, T2S, R6W, SLB&M; (4) Well - South 2300 feet and East 700 feet from the NW Corner of Section 17, T3S, R4W, SLB&M; (5) Well - South 500 feet and East 2000 feet from the NW Corner of Section 18, T3S, R4W, SLB&M; (6) Well - South 1500 feet and East 4000 feet from the NW Corner of Section 18, T3S, R4W, SLB&M. The water was used for municipal purposes within the service area of Tooele County and was limited to diversion and depletion of 200.0 acre-feet and 110.0 acre-feet respectively. The water was used in all or portion(s) of Section 22, T1S, R7W, SLB&M; Section 26, T1S, R7W, SLB&M; Section 5, T2S, R6W, SLB&M; Section 8, T2S, R6W, SLB&M; Section 9, T2S, R6W, SLB&M; Section 16, T2S, R6W, SLB&M; Section 17, T2S, R6W, SLB&M; Section 2, T3S, R5W, SLB&M; Section 11, T3S, R5W, SLB&M; Section 12, T3S, R5W, SLB&M; and Section 32, T1S, R6W, SLB&M.

Due to an error in the water right database an approved point of diversion was omitted from the heretofore points of diversion of Permanent Change Application 15-4036 (a37152). The approved point of diversion is located: (7) Well - East 1800 feet from the SW Corner of Section 23, T2S, R7W, SLB&M. It is the opinion of the State Engineer that this discrepancy can be amended by this decision without the need to republish the application.

Hereafter, it is proposed to divert 200.0 acre-feet of water from the same points as heretofore and from additional points located: (1) Well - South 1150 feet and East 2500 feet from the NW Corner of Section 22, T3S, R4W, SLB&M; (2) Well - North 2065 feet and East 2030 feet from the SW Corner of Section 21, T3S, R4W, SLB&M. The water is to be used for municipal purposes within the service area of Tooele City Water Special Service District and Tooele County.

Notice of the application was published in the Tooele Transcript - Bulletin on March 17 and 24, 2011. No protests were received.

The State Engineer has reviewed the application for compliance with current policy for evaluating groundwater change applications in the Tooele Valley implemented on April 16, 2008 and found that the requested changes are within the limits established in the policy.

It is the opinion of the State Engineer that this change application can be approved without adversely affecting existing rights. The applicants are put on notice that diligence must be shown in pursuing the development of this application which can be demonstrated by the completion of the project as proposed in the change application.

It is, therefore, **ORDERED** and Permanent Change Application Number 15-4036 (a37152) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) This application is limited to municipal purposes within the service areas of Tooele City Water Special Service District and Tooele County.
- 2) Historic use under Water Right Number 15-4036 was limited to the irrigation requirements of 50.0 acres. Subsequent permanent change applications have changed the nature of use to municipal. Therefore the annual diversion and depletion under this permanent change application are limited to 200.0 acre-feet of water per year and 110.0 acre-feet¹ per year respectively.
- 3) Inasmuch as this application seeks to divert water from numerous points of diversion, it is necessary that detailed information be provided to the State Engineer to show which sources of supply are actually developed and used and the extent of their usage under this application. Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicant must identify every source of water used under this application and the amount of water used from that source. The proof must also show the capacity of the sources of supply and demonstrate that each source can provide the water claimed to be diverted under this right as well as all other water rights which may be approved to be diverted from those sources.
- 4) The applicant(s) shall install and maintain measuring and totalizing recording devices to meter all water diverted from all sources pertaining to this application and shall annually report this data to the Division of Water Rights Water Use Program.
- 5) Whereas this application has been filed to entirely replace prior filed Change Application Number 15-4036 (a25225), with this approval that prior application is considered to have been **WITHDRAWN**.
- 6) If historical resources such as human remains (skeletons), prehistoric arrowheads/spear points, waste flakes from stone tool production, pottery, ancient fire pits, historical building foundations/remains, artifacts (glass, ceramic, metal,

¹ Consumptive use of alfalfa: 26.44 inches = 2.20 feet; Consumptive Use / Duty = 2.20 feet / 4.0 feet = 55.0%.
Tooele Station, *Consumptive Use of Irrigated Crops in Utah, Research Report 145, p338.*

etc.) are found during construction, call the Utah Division of State History at 801-533-3555.

The State Engineer has statutory responsibility to create and maintain water right records based on an administrative process outlined in statute. The State Engineer is not authorized by statute to adjudicate water right title or the validity of established water rights. It is noted that failure to exercise a water right within the statutory period could render all or a portion of a water right invalid through forfeiture. Parties who wish to challenge the validity of a water right are advised that a declaration of forfeiture is a judicial action and the courts are available to pursue such suits. (UCA 73-1-4).

As noted, this approval is granted subject to prior rights. The applicants shall be liable to mitigate or provide compensation for any impairment of or interference with prior rights as such may be stipulated among parties or decreed by a court of competent jurisdiction.

The applicants are strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicants to determine the applicability of and acquisition of such permits. Once all other permits have been acquired, this is your authority to develop the water under the above referenced application which under Sections 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof must be filed on or before May 31, 2016, or a request for extension of time must be acceptably filed; otherwise the application will be lapsed. This approval is limited to the rights to divert and beneficially use water and does not grant any rights of access to, or use of land or facilities not owned by the applicants.

Proof of beneficial use is evidence to the State Engineer that the water has been fully placed to its intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location, uses, and extent of your water right. Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicants must identify every source of water used under this application and the amount of water used from that source. The proof must also show the capacity of the sources of supply and demonstrate that each source can provide the water claimed to be diverted under this right as well as all other water rights which may be approved to be diverted from those sources.

Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this permanent change application.

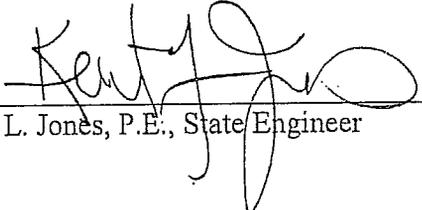
It is the applicants' responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership.

Your contact with this office, should you need it, is with the Weber River/Western Regional Office. The telephone number is 801-538-7240.

ORDER OF THE STATE ENGINEER
Permanent Change Application Number
15-4036 (a37152)
Page 4

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Order. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Order, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 5 day of May, 2011.


Kent L. Jones, P.E., State Engineer

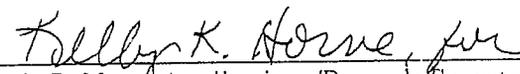
Mailed a copy of the foregoing Order this 5 day of May, 2011 to:

Tooele City Water Special Service District
90 North Main Street
Tooele, UT 84074

Tooele County
47 South Main Street
Tooele, UT 84074

Utah Division of Drinking Water
PO Box 144830
Salt Lake City, UT 84114-4830

Division of Water Rights
Water Use Program

BY: 
Sonia R. Nava, Applications/Records Secretary